

**OFFICE OF THE HEARING EXAMINER
CITY OF RENTON**

Minutes

APPLICANT: Michael Romano
Centurion Development Services
PO Box 2668
Redmond, WA 98073

OWNER: M.J.F. Holdings, Inc.
c/o Centurion Development Services
Michael Romano
PO Box 2668
Redmond, WA 98073

CONTACT: Stephen M. O'Hearne
Barghausen Consulting Engineers
18214 72nd Avenue S
Kent, WA 98032

Altmyer Preliminary Plat
File No.: LUA 08-106, PP, ECF

LOCATION: 11022 SE 184th Place

SUMMARY OF REQUEST: Requesting Preliminary Plat approval for the subdivision of a 3.08-acre parcel into 21 lots for the eventual development of single-family residences, with tracts for recreation, stormwater, private access, and joint use driveways.

SUMMARY OF ACTION: Development Services Recommendation: Approve subject to conditions.

DEVELOPMENT SERVICES REPORT: The Development Services Report was received by the Examiner on November 18, 2008.

PUBLIC HEARING: After reviewing the Development Services Report, examining available information on file with the application, field checking the property and surrounding area; the Examiner conducted a public hearing on the subject as follows:

MINUTES

*The following minutes are a summary of the November 25, 2008 hearing.
The legal record is recorded on CD.*

The hearing opened on Tuesday, November 25, 2008, at 9:02 a.m. in the Council Chambers on the seventh floor of the Renton City Hall. Parties wishing to testify were affirmed by the Examiner.

The following exhibits were entered into the record:

<u>Exhibit No. 1:</u> Yellow file containing the original application, proof of posting, proof of publication and other documentation pertinent to this request.	<u>Exhibit No. 2:</u> Vicinity Map and Preliminary Plat Map
<u>Exhibit No. 3:</u> Topographic Map	<u>Exhibit No. 4:</u> Preliminary Road and Drainage Map
<u>Exhibit No. 5:</u> Zoning Map	<u>Exhibit No. 6:</u> ERC Advisory Notes

The hearing opened with a presentation of the staff report by Gerald Wasser, Associate Planner, Community and Economic Development Department, City of Renton, 1055 S Grady Way, Renton, Washington 98055. The Altmyer Preliminary Plat is a project that is vested in King County and is being processed by the City of Renton. King County prepared a preliminary report and recommendations to the City of Renton upon which the report to the Hearing Examiner is based. The property is 3.08 acres and is generally flat with a maximum slope of less than 2%.

There are 21 proposed lots that range in size from approximately 3,400 to 6,072 square feet. The King County zoning is R-8 and the proposed density would be 8 dwelling units per gross acre. The site would be accessed from SE 184th Place, some lots would be accessed via private access tracts and joint use driveways. One combined recreation and stormwater tract has been proposed, this tract would be approximately 8,710 square feet in area and would include a picnic area and children's play areas.

Environmental Review Committee issued a Determination of Non-Significance. No appeals were filed.

The site is designated as Urban in the 1994 King County Comprehensive Plan, it is also in the Soos Creek Area Community Plan and is in compliance with the goals, objectives and policies of those plans.

The proposed lots comply with the development standards of King County. The lot pattern and internal circulation also comply with the King County Subdivision requirements.

The Renton School District has stated that they can accommodate the additional students generated by this proposal.

Adequate drainage measures have been proposed to satisfy the requirements in the King County Surface Water Development Manual. The Soos Creek Water and Sewer District has indicated its ability to serve this proposed project in terms of sewage disposal and water supply.

There is an agreement between the City of Renton and King County for the widening of SE 184th Place. It is currently a 30-foot wide road, which would be widened to 38-feet.

Michael Romano, Centurion Development Services, PO Box 2668, Redmond, 98073 stated that this project is vested to King County Surface Water Drainage Manual 2005 Edition and 2007 King County Road Standards.

Initially the 30-foot panhandle was going to work okay with the County's road standards. The initial property consisted of two tax parcels, each of which had a 15-foot panhandle that were side by side and went to 112th forming a 30-foot panhandle. Easements between the two owners were granted. There is an existing sewer main that runs back into the property. At the time of the first meeting with King County, the project was under the 1993 King County Road Standards which allowed for a 24-foot wide paved road with either vertical or rolled

curb and sidewalk on one side. Before submission, the 2007 Road Standards became effective and that widened the road due to sidewalks being required on both sides. From the north property line to where the grade breaks and starts the pond slope, there is about 16-17 feet of flat ground. The County agreed that it made sense to turn that into the right-of-way and the City also agreed to this proposal. The west 65-feet of the tax parcel on the north side of 184th between the property and the pond tract, became part of the plat with the internal configuration of today.

There are 21 lots, with a combined recreation/detention space tract. The cost of the improvements in the recreation tract would be significant to the developer. The 21 homeowners will have to maintain that park. He felt that that should more than cover the City's mitigation fee for parks, or at least as an offset to the mitigation fee.

There is a large parcel immediately to the west of 184th, it is an apartment unit and would make it impossible to put the internal road through to the west.

During the course of going through this project the issue of flooding came forward. For many years the area directly north of this plat flooded. The County analyzed the entire system to see what they could do to help mitigate the flooding. The pond at the northwest intersection of 184th Place and 112th Ave SE was upsized and the piping ran to another pond that was adjacent to Benson Highway. There is a control structure in place, which this project will retrofit with an overflow riser. This is a Level 2 overflow area, however they have volunteered to go to the Level 3 conservation standard.

Regarding Condition 13a, which talks about street trees on SE 184th Place, there is not enough room to be able to plant trees on the south side. The back of the sidewalk will end up being within about a foot or so from the property line to the south. There won't be any room on the north side unless the City is okay with planting street trees in the pond tract. There is a fence and it could be moved further to the north of the eventual sidewalk, that could create some space and trees could be planted on that side.

Keith Adams, 10939 SE 183rd Court, Renton 98055, stated that he lives just north of proposed Lots 4/5. He has lived at this location for approximately 30 years. He was concerned with the flooding in the area and he had an environmental geologist look at the records. He determined that this area was originally wetlands and that the ground is not permeable. As each development occurs in this area new flooding has taken place. When the apartments were built, the entire Altmyer property was underwater because they started building without doing the necessary drainage work. The house on the southwest corner of 184th and 112th was flooded so badly they had to jack up the house.

There has been no flooding since the last solution was put in place, however with the proposed building, he is afraid that the flooding will happen again. He would like to see a more robust plan to avoid surface water runoff onto the surrounding properties.

Kayren Kittrick, Community and Economic Development, Development Services Division stated that the fire flow requirements are the same for King County as for the City of Renton.

The storm drainage pond parcel is owned by the City of Renton, it was transferred at the time of Annexation. The site is designed to hold in excess of standard, the proposal is to retain/detain the stormwater for a longer period of time and more is being held on-site than is actually required by the 2005 Stormwater Manual.

On the southeast corner of this proposed property is a private access tract. This plat is considered a proposal, it is subject to alteration as to how the accesses will be put in legally. The City does not like the little tracts, an

easement or joint use easement driveway would be preferred. The easements will be assigned to those homes that are specifically using the access easements and will be required to maintain them as well.

Street trees are required, however this section of 184th is off site. Typically the plat requirements are for on-site, there are still some questions as to the ownership of this intersection, the property owners in the middle may object to trees being put into the right-of-way in front of their property, if so the plans would be modified accordingly.

There was a discussion regarding mitigation fees for parks, roads, and fire. There are many differences between King County and the City of Renton regarding the imposing of these mitigation measure fees. The City attorneys are in the process of reviewing these fees.

As to the cul-de-sac, there is no place for the road to continue through, there are apartments on the west side, and they cannot go north everything is developed. The grid system is served by the major streets surrounding the area. The fire department was content with the access as proposed and have stated that they would be able to serve this site.

Mr. Romano stated that King County does a very thorough job of reviewing new development. Any requirements are presented ahead of time and King County makes sure that the requirements can be fulfilled and must be completed before it is listed as a "Condition". In this case, the drainage has been checked and rechecked. They have looked at every piece of property, they have looked at all of the county's drainage records and looked at the as-built plans for every drainage facility that has been constructed within this drainage basin. They now know why it used to flood and why it doesn't flood any more. They know why the drainage system that they are proposing is going to further serve to mitigate that situation. None of the drainage from this site will actually end up in the existing pond. Everything from this site will drain to the west. The outfall from the new vault, located in the northwest corner of Tract C will discharge to the west and connect to the existing system in the northeast corner of Lot 7. They have checked and rechecked to make sure there will be no drainage problem with any of the water drained from this site going into the existing pond.

Jerrit Jolman, 1375 NW Mall Street, Ste. 3, Issaquah, WA 98027 stated that the outflow for Pond A, the on-site pond, drains to the west and then doglegs over to 183rd and across 108th and into the pond that is near the Benson Highway. King County has been very sensitive to what goes on in this basin due to all the drainage issues during the 1970's and 1980's. After reviewing all the records for this area they created two drainage models, one which modeled all the runoff from the basin that drains to Pond A and then another backwater analysis was created that modeled the pipe leaving that pond, which drains to the additional pond on Benson Highway. They found that the pond was capable of handling a 100-year flood event.

Drainage issues really began in the late 1970's when all the construction began. There were a number of drainage and flooding issues associated with both of the early ponds. In 1992 the County had a drainage analysis done and came up with a list of options to alleviate these problems. None of those recommendations were ever followed through. Instead they actually enlarged the on-site pond (Pond A), and also enlarged Pond B on the Benson Highway.

In the research work they have recently done, the pipe system between the two ponds has doubled the capacity needed to handle a 100-year storm. They have considered installing an emergency overflow for Pond A, which would allow the pond to drain in severe rainstorms.

Level 3 flood control is typically used only in areas where there are existing flooding problems. This site is not mapped as a flooding problem, but due to the history in this area it seemed to be an additional measure of safety.

The **Examiner** called for further testimony regarding this project. There was no one else wishing to speak, and no further comments from staff. The hearing closed at 10:06 a.m.

FINDINGS, CONCLUSIONS & RECOMMENDATION

Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. The applicant, Michael Romano, doing business as Centurion Development Services, filed a request for a Preliminary Plat.
2. The yellow file containing the staff report, the State Environmental Policy Act (SEPA) documentation and other pertinent materials was entered into the record as Exhibit #1.
3. The Environmental Review Committee (ERC), the City's responsible official issued a Determination of Non-Significance (DNS).
4. The subject proposal was reviewed by all departments with an interest in the matter.
5. The subject site is located west of 112th Avenue SE and north of SE 186th Street. It is located in the recently annexed Benson area of the City.
6. The property while located within the City of Renton is entitled to processing under King County zoning and platting regulations. It was initially reviewed by King County with City staff providing final review.
7. The map element of the Comprehensive Plan designates the area in which the subject site is located as suitable for the development of detached single-family homes, but does not mandate such development without consideration of other policies of the Plan.
8. The subject site is currently being reviewed under King County's R-8 zoning which permits eight units per acre.
9. The subject site was annexed to the City with the adoption of Ordinance 5327 enacted in March 2008.
10. The subject site is approximately 3.08 acres in area. The subject site is approximately 387 feet deep (east to west) by approximately 343 feet wide. A long, approximately 240-foot dogleg connects the subject site to 112th Street.
11. The subject site is generally level with storm water currently routed to the northwest corner of the subject site.
12. The applicant proposes dividing the subject site into 21 lots and 9 tracts. One tract, Tract C, would serve as the stormwater detention area and recreational space. The other eight (8) tracts would be either joint use driveways or private access tracts. The City plans on reviewing the nature of ownership or status of these tracts and may require them to be easements with ownership associated with an adjacent lot.

13. The subject site is an interior lot with a pipestem that runs west to east and connects on the east to 112th Avenue SE. This pipestem will be dedicated as a new public street, SE 184th Place. This new street will end in a cul-de-sac.
14. The plat's lots will generally be aligned north and south of a new public roadway. Proposed Lots 1 to 7 will be north of the roadway while Proposed Lots 11 to 21 will be south of the roadway. Proposed Lots 8 to 10 will be at the western end of the cul-de-sac bulb. Tract C, the detention/recreation tract, will be north of the roadway.
15. The proposed lots will range in size from 3,400 square feet to 6,072 square feet. The lots have the appropriate overall lot area as well as lot width and length. The lots appear to support appropriate yards. Access to the lots will be provided by a new roadway ending in a cul-de-sac.
16. The subject site is located within the Renton School District. The project is expected to generate approximately 9 or 10 school age children. These students would be spread across the grades and would be assigned on a space available basis.
17. The density for the plat would be approximately 8 dwelling units per gross acre.
18. The development will generate approximately 10 trips per unit or approximately 210 trips for the 21 single-family homes. Approximately ten percent of the trips, or approximately 21 additional peak hour trips will be generated in the morning and evening.
19. The area has had a history of flooding and neighbors confirm there have been problems in the past. King County has rectified some of the issues including modifying the detention pond located immediately east of the plat. The applicant's review shows that 100-year flood conditions are contained by the existing systems and will not be exacerbated by the proposed plat. Neighbors report there has been no recent flooding including during some larger, recent storm events. The applicant will be using Level 3 Flow Control for its storm system on Tract C.
20. Both domestic water and sanitary sewer will be provided by the Soos Creek District. Availability certificates for both utilities have been provided.

CONCLUSIONS:

1. This plat remains subject to King County rules since the application was submitted while still part of King County. The plat is governed by the land use regulations of King County in terms of lot size and general dimensions as well as the conditions imposed by King County on the development of a single family plat such as on-site recreation, street trees, school walkway needs, etc. The plat will be subject to review given the criteria of the former King County jurisdiction and conditions will be imposed as suggested by King County officials.
2. The proposed plat appears to serve the public use and interest. The plat will provide a range of lot sizes as it provides additional housing choices for detached single-family homes. It helps meet the City's goals of providing appropriate land for development in this growing area of the City. The plat will provide onsite recreation, stormwater detention and retention and roadways to handle the additional traffic.
3. The City will have to make some additional determinations on the access proposals that include shared use driveways and private tracts for access. Generally, such arrangements complicate maintenance

issues as the roadway surfaces deteriorate. Since access is important for emergency services, the City may determine that the proposed separate tracts should be eliminated in favor of easements across fee owned property.

4. The Soos Creek District has indicated that the plat will have access to the needed water and sewer utilities. The City will provide Fire and Police protection.
5. The development of the plat will help increase property values and increase the tax base of the City.
6. In conclusion, the plat appears to be reasonably designed under King County standards and while somewhat different from current City standards, does not vary much from those standards. The City Council should approve the proposed plat subject to the conditions formulated by King County staff and review by Renton staff.

RECOMMENDATION:

The City Council should approve the 21-lot plat subject to the following conditions:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the King County base density (and minimum density) requirements of the R-8 zone classification. All lots shall meet the minimum dimensional requirements of the R-8 zone classification and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat, which do not result in substantial changes may be approved at the discretion of the City of Renton Community & Economic Development Department.

Any/all plat boundary discrepancy shall be resolved to the satisfaction of the City of Renton Community & Economic Development Department prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance, which indicates an encroachment, lines of possession or a conflict of title.

4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Design & Construction Standards (2007KCRD&CS) established and adopted by King County Ordinance No. 15753.
5. The applicant must obtain the approval of the City of Renton Fire Marshall for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code. Requirements shall apply to all plats. The following conditions specifically address drainage issues for this plat:

- a. The drainage facilities shall meet the requirements of the 2005 King County Surface Water Design Manual (KCSWDM). The drainage design shall meet at a minimum the Level 3 Flow Control and Basic Water Quality in the KCSWDM, unless otherwise approved by the reviewing agency.
 - b. The existing County detention pond on Lot 1 [Short Plat 4740409 (Parcel 3223059313)] shall be retrofitted with an overflow riser in the control manhole as shown on the Preliminary Road and Storm Drainage Plan received April 30, 2008. This design can be modified, as approved by the engineering plan reviewing jurisdiction.
 - c. To implement the required Best Management Practices (BMPs) for treatment of storm water, the final engineering plans and Technical Information Report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the 2005 KCSWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMPs for site development.
 - d. Current standard plan notes and ESC notes, as established by the King County Department of Development and Environmental Services (DDDES) Engineering Review, shall be shown on the engineering plans.
 - e. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
7. The following road improvements are required for this subdivision to be constructed according to the 2007 King County Road Standards:
- a. The internal access road SE 184th Place shall be improved at a minimum to the urban sub-access street standard with a permanent cul-de-sac at the west end.
 - b. Sufficient right-of-way (ROW) shall be dedicated for the SE 184th Place improvement with the final plat. Note that this includes ROW acquisition from King County/City of Renton for the needed ROW adjoining Lot 1 of SP 474040, known as an existing County detention pond. A 25-foot R/W radius is proposed at 112th Avenue SE.
 - c. Any proposed joint use driveways or private access tracts shall be improved per Section 3.01 and 2.09 of the KCRDCS. These tracts shall be owned and maintained by the lot owners served.

- d. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.12 of the KCRS. 9. All utilities within proposed rights-of-way must be included within a franchise approved by the City of Renton prior to final plat recording.
8. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
9. Off-site access to the subdivision shall be over a full-width, dedicated and improved road, which has been accepted by King County for maintenance. If the proposed access road has not been accepted by King County at the time of recording, then said road shall be fully bonded by the applicant of this subdivision.
10. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners association. This shall be stated on the face of the final plat.
11. A suitable recreation space shall be provided within the combined drainage/ recreation tract. The recreation space may be placed above the vault. The recreation area must be accessible and consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.) and landscaping of KCC 21A.16.
 - a. A detailed recreation space plan (i.e., landscape specs consistent with 21A.14 and KCC 21A.16) shall be submitted for review and approval by the City of Renton Community & Economic Development Department and City of Renton Parks Department concurrent with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, finished grades, access to underground vault (access grate) and general improvements, i.e., landscaping, fencing, and trail.
 - b. The vault maintenance shall not interfere with the recreation area improvements.
 - c. If the engineering requirements for the construction of the drainage facility prevent provision of a suitable recreation tract, a separate recreation tract shall be provided. A revision to the plat may be required.
 - d. All landscaping shall be maintained in good condition and be irrigated. The landscape plan shall include the method of irrigation.
 - e. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
12. A homeowners' association or other workable organization shall be established, to the satisfaction of the City of Renton Community & Economic Development Department, which provides for the ownership and continued maintenance of the recreation tract.

13. Street trees shall be provided as follows:
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along SE 184th Place. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 2007 King County Road Standards, unless the City of Renton Department of Public Works determines that trees should not be located in the street right-of-way.
 - c. If the City of Renton determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the City of Renton has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by the City of Renton Community & Economic Development Department if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by the City of Renton Community & Economic Development prior to engineering plan approval.
 - g. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after the Community & Economic Development Department has completed a second inspection and determined that the trees have been kept healthy and thriving.
 - h. A landscape inspection fee shall also be submitted prior to plat recording.
14. The proposed plat shall comply with the requirements of KCC 16.82 including the significant tree retention as required by 16.82.156. A significant tree retention/replacement plan shall be submitted with the engineering plans.

ORDERED THIS 2nd day of December 2008.

FRED J. KAUFMAN
HEARING EXAMINER

TRANSMITTED THIS 2nd day of December 2008 to the following:

Mayor Denis Law	Dave Pargas, Fire
Jay Covington, Chief Administrative Officer	Larry Meckling, Building Official
Julia Medzegian, Council Liaison	Planning Commission
Gregg Zimmerman, PBPW Administrator	Transportation Division
Alex Pietsch, Economic Development	Utilities Division
Jennifer Henning, Development Services	Neil Watts, Development Services
Stacy Tucker, Development Services	Janet Conklin, Development Services
Marty Wine, Assistant CAO	Renton Reporter

Pursuant to Title IV, Chapter 8, Section 100G of the City's Code, **request for reconsideration must be filed in writing on or before 5:00 p.m., December 16, 2008.** Any aggrieved person feeling that the decision of the Examiner is ambiguous or based on erroneous procedure, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing may make a written request for a review by the Examiner within fourteen (14) days from the date of the Examiner's decision. This request shall set forth the specific ambiguities or errors discovered by such appellant, and the Examiner may, after review of the record, take further action as he deems proper.

An appeal to the City Council is governed by Title IV, Chapter 8, Section 110, which requires that such appeal be filed with the City Clerk, accompanying a filing fee of \$75.00 and meeting other specified requirements. Copies of this ordinance are available for inspection or purchase in the Finance Department, first floor of City Hall. **An appeal must be filed in writing on or before 5:00 p.m., December 16, 2008.**

If the Examiner's Recommendation or Decision contains the requirement for Restrictive Covenants, the executed Covenants will be required prior to approval by City Council or final processing of the file. You may contact this office for information on formatting covenants.

The Appearance of Fairness Doctrine provides that no ex parte (private one-on-one) communications may occur concerning pending land use decisions. This means that parties to a land use decision may not communicate in private with any decision-maker concerning the proposal. Decision-makers in the land use process include both the Hearing Examiner and members of the City Council.

All communications concerning the proposal must be made in public. This public communication permits all interested parties to know the contents of the communication and would allow them to openly rebut the evidence. Any violation of this doctrine would result in the invalidation of the request by the Court.

The Doctrine applies not only to the initial public hearing but to all Requests for Reconsideration as well as Appeals to the City Council.